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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,376	05/30/2001	Robert Felton		5673

7590 02/24/2004

Jack C. Munro
Suite 225
28720 Roadside Drive
Agoura Hills, CA 91301

EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/867,376

Applicant(s)

FELTON ET AL

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 and 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 11/19/2003 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

II. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Santos (U.S. Patent No. 5,558,398)

Santos teaches a back support system comprising a rigid base 14 having a front surface and a rear surface, the rear surface adapted to positioned as a back of a chair, a user's body is to be located against the front surface, the base having a longitudinal mid-axis which is adapted to be located in alignment with a user's spine, an inflatable bladder assembly mounted in part on the front surface, the inflatable bladder assembly including several sets of bladders, each set of comprising at least two in number of

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inflatable bladders, each bladder being spaced from the mid-axis, means for controlling the inflation of the inflatable bladder assembly, the means being manually operable by a user, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human (See Figure 1 where the contour of the seat back appears to conform to the shape of the back as well as the last line of the Abstract as well as column 2, lines 48-63 and column 3, lines 24-36)), each set of bladders being activated simultaneously, the sets of bladders including an upper lumbar bladder set, a middle lumbar bladder set, and a lower lumbar bladder set, the upper lumbar set being adapted to be located in the upper lumbar region of a human user, See specification and Figures 1-2 and 4-5.

III. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiyomiya et al (European Patent No. EP 68211 A2)

Kiyomiya et al teach a back support system comprising a rigid base 6 having a front surface and a rear surface, the rear surface adapted to positioned as a back of a chair, a user's body is to be located against the front surface, the base having a longitudinal mid-axis which is adapted to be located in alignment with a user's spine, an inflatable bladder assembly mounted in part on the front surface, the inflatable bladder assembly including several sets of bladders, each set of comprising at least two in number of inflatable bladders, each bladder being spaced from the mid-axis, means for controlling the inflation of the inflatable bladder assembly, the mean being manually operable by a user, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human (See page 6, lines 18-20).

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IV. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Jay et al (U.S. Patent No. 5,671,977)

Jay et al teach a back support system comprising a rigid base 7 having a front surface and a rear surface, the rear surface adapted to positioned as a back of a chair, a user's body is to be located against the front surface, the base having a longitudinal mid-axis which is adapted to be located in alignment with a user's spine, an inflatable bladder assembly 9 mounted in part on the front surface, the inflatable bladder assembly including several sets of bladders, each set of comprising at least two in number of inflatable bladders, each bladder being spaced from the mid-axis, means for controlling the inflation of the inflatable bladder assembly, the means being manually operable by a user, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human (See column 2, lines 46-67 and column 3, lines 1-5), each set of bladders being activated simultaneously, the sets of bladders including an upper lumbar bladder set, a middle lumbar bladder set, and a lower lumbar bladder set, the upper lumbar set being adapted to be located in the upper lumbar region of a human user, See specification and Figures 1-2 and 4-5.

V. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Nemoto et al (JP 57205238 A)

Nemoto et al teaches the structure as claimed including, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human. (See Figures 2 and 5-8.)

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VI. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Isono et al (U.S. Patent No. 4,592,588)

Isono et al teaches the structure as claimed including, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human. (See column 1, lines 1-12 and Figures 1-4)

VII. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated Sekido et al et al (U.S. Patent No. 4,965,899)

Sekido et al teaches the structure as claimed including, each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human. (See the last line of the Abstract and Figures 28 and 60-67)

Claim Rejections - 35 USC § 103

VIII. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

IX. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Santos in view of Neale (U.S. Patent No. 5,137,329).

Santos teaches the structure substantially as claimed but does not teach the tilt bladder assembly. However Neale does teach such a bladder to be old since such a bladder would provide at least one other direction of adjustment for a seat back to provide comfort.

X. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santos in view of Andres (U.S. Patent No. 5,280,997).

Santos teaches the structure substantially as claimed but does not teach the specifics of the bolster connected by a hinge axis to a rigid base and being pivotable relative to the base by means of a bolster bladder, inflation of bolster bladder causing bolster to pivot about the hinge axis in order to vary the lateral support that is applied to the back of the human user or the fixed plate and movable plate which are hingedly connected together at one edge forming a transverse axis, a tilt bladder located between the fixed plate and the movable plate, inflation of the tilt bladder causes the movable plate to pivot relative to the fixed plate to vary the angular position of the back support system. However Andres et al does teach such a structure to be old (See Figures 1-2) to be old, since such a structure would provide at the backrest with several adjustability features to accommodate the comfort levels and/or different physical features of different users of the seat.

XI. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nemoto et al in view of Neale (U.S. Patent No. 5,137,329).

Nemoto et al teaches the structure substantially as claimed but does not teach the tilt bladder assembly. However Neale does teach such a bladder to be old since such a bladder would provide at least one other direction of adjustment for a seat back to provide comfort.

Remarks

In the Amendment filed 11/19/2003 the Applicant added the limitation “,each of the set of bladders being specifically shaped to accommodate to a particular series of back muscles of a human” and argues that the prior art, specifically those references used in the 102(b) rejections, do not teach that each of the set of bladders have been specifically shaped to accommodate to a particular series of back muscles of a human. However, each of the references teach such a limitation specifically in the text of the specification and/or the Figures noted in the rejections. The very limitation that the Applicant's Representative asserts as not being taught by the references is the primary object or purpose of the inventions. In each of the references used in the 102(b) rejections, especially the specific lines of the specifications that the Examiner points to in those references, the Applicant will find that the invention is designed to conform to the body, shape, and various areas/regions of a user or simply change contour to

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accommodate different shapes, sizes, and special comfort needs or levels of comfort of the user.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

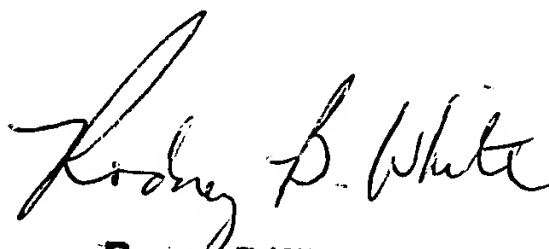
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. The examiner can normally be reached on 5:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Rodney B. White,
Patent Examiner
Art Unit 3636
February 12, 2004



Rodney B. White
Patent Examiner